

How Viral Load Reporting Works

Fact Sheet

In December 1999, the Centers for Disease Control and Prevention (CDC) changed the HIV surveillance case definition. The new case definition requires both laboratories and providers to report the results of viral load tests that show detectable viral load. Reports of test results will include the name of the person being tested.

The change to the case definition was effective January 1, 2000. The Texas Department of Health (TDH) will *not* accept case reports of HIV infection based solely on a detectable viral load unless the date on the viral load test falls on or after this date.

Only tests that show *detectable* or positive viral load should be reported.

To report a viral load test result, providers and laboratories should contact their local surveillance authority with the following information:

- ◆ Name, address, birthdate, sex, and race/ethnicity of the person with the reportable test result
- ◆ Test date, test results, and test type
- ◆ Diagnosing provider's name, address, and telephone number

Initial reports can be made through written reports or over the telephone. Call 1-800-705-8868 to be connected with the HIV/STD reporting unit in your area. Viral load reports are merged into the confidential system currently used to report HIV/AIDS cases.

After the initial report, if additional follow up is needed, providers will be contacted by local public health workers to complete case reports.

When needed, public health workers will work with providers to make sure that infected individuals:

- ◆ knows of their HIV infection,
- ◆ have been given referral to HIV services, and
- ◆ have been offered help in notifying partners that they may have been exposed to HIV.

These public health services are most important for newly diagnosed individuals. In some circumstances where there are public health concerns, such as a newly diagnosed STD infection in a patient with a previously diagnosed HIV infection, public health workers may contact providers to offer further referral and partner notification services.

Case information is then sent from the local HIV/STD reporting unit to TDH in Austin. TDH removes identifying information, then sends the case information to the CDC in Atlanta.

Surveillance information is **not** public information. Surveillance information is confidential. Lists of names are not released to the media, the public, insurance companies, law enforcement agencies, immigration agencies, or any other state or federal agencies.



Questions and Answers on Viral Load Reporting

Fact Sheet

Why is TDH now requiring viral load reporting?

CDC changed the surveillance case definition to make sure all HIV infections are reported, evaluated, and counted. This will give a more complete picture of the number and profile of HIV infections in Texas and the rest of the United States. Our rules require TDH to use CDC's case definition for reporting purposes.

How does viral load reporting by name work?

Effective January 1, 2000, laboratories and providers in Texas should report viral load tests with detectable results. Cases should be reported to the local surveillance authority. Call 1-800-705-8868 to be connected with the HIV/STD reporting unit in your area.

Can you get an anonymous viral load test?

Publicly funded HIV providers cannot provide anonymous viral load tests. Anonymous antibody testing for HIV is available in all areas of Texas. All HIV testing sites contracting with TDH must offer anonymous HIV antibody tests. Call 1-800-299-AIDS to find the nearest testing site.

What kind of follow-up with providers will be done on cases reported because of detectable viral load?

Local surveillance authorities will first check to see if the test is for someone who has already been reported with HIV/AIDS. If the case has been previously reported and the case report was complete, and there is no other reason to talk to the physician who ordered the test (e.g. new STD infection reported for this HIV+ person), no further follow-up will be done on that test result.

If the test is for someone who has not had a report for an HIV test or AIDS diagnosis, then surveillance workers will contact the provider who ordered the viral load test to complete a case report. At that time, the worker will offer the provider assistance in the following areas:

- \$ assuring the person knows of their infection
- \$ offering services referrals
- \$ offering assistance in notifying sex or needle sharing partners

For cases reported due to detectable viral load, it is unlikely that the first two services will be needed (as viral loads will not be available for people not in care). All patient/partner services will only be offered after consultations with providers.



Confidentiality of Viral Load and HIV/AIDS Reporting

Fact Sheet

Surveillance information is not public information.

By law, all surveillance information, including HIV reporting information, is *confidential* and *privileged*. The *Open Records Act*, *Medical Practice Act*, and the *Communicable Disease Prevention and Control Act* contain provisions which protect the confidentiality of disease reporting information. No one can find out a person's HIV status by filing an open records request or a Freedom of Information Act request.

Surveillance workers cannot be subpoenaed or deposed to release surveillance information about an individual. Surveillance workers cannot be questioned in a civil, criminal, special or other proceeding about the existence or contents of surveillance records for a person who is examined or treated for a reportable disease without that person's consent (Health and Safety Code Section 81.046).

Surveillance workers do not give law enforcement agencies, immigration agencies, the media, insurance companies, employers or families access to the databases which contain surveillance information. Health departments do not provide lists of names of people with HIV or AIDS.

There are very limited circumstances under which surveillance information containing a name might be released. Surveillance workers can be ordered to release information on the HIV status of an individual to protect the health of a spouse (Health and Safety Code Section 81.107), health care workers (Section 81.107), first responders, emergency personnel, peace officers, fire fighters (Sections 81.048, 81.050), and victims of sexual assault (Code of Criminal Procedure).

Surveillance workers who *negligently* release or disclose surveillance information are liable for actual damages, a penalty of not more than \$1,000, and the cost of bringing the case to court and attorney's fees.

Surveillance workers who *intentionally* breach confidentiality are liable for actual damages a penalty of not less than \$1,000 and not more than \$5,000, and the cost of bringing the case to court and attorney's fees.

Intentional or criminally negligent breaches of confidentiality are Class A misdemeanors.

TDH employees who breach confidentiality are subject to disciplinary action up to and including termination.

Clients who believe their confidentiality has been breached should tell the director of the organization responsible for the breach. If the issue is not resolved or the client feels that it is inappropriate to discuss the breach with the organization's director, the client can call 1-800-299-AIDS to file a complaint with the TDH. Complaints can be filed anonymously.



Security of HIV/AIDS Reporting Information

Fact Sheet

In order to protect the security of HIV and AIDS case reports and surveillance databases, the Bureau of HIV and STD Prevention at TDH has taken specific proactive security measures. The TDH requires similar levels of security at regional TDH Offices and at surveillance contractor sites at local health departments.

- ◆ All paper copies of data collection forms containing potentially identifying information are maintained in a locked file cabinet located in a locked file room.
- ◆ All diskettes received from surveillance sites are password protected.
- ◆ Diskettes provided by sites are either permanently erased or returned after being loaded and verified as erased.
- ◆ Access to the surveillance databases are limited to the fewest numbers of staff possible and only those employees that have an express need to use the surveillance databases to do their job have access.
- ◆ Surveillance databases are on Astand alone@systems that cannot be accessed through the Internet. Surveillance databases are maintained on workstations and computer networks which cannot be accessed by individuals outside the surveillance unit.
- ◆ Offices which house surveillance data have physically restricted access.
- ◆ Telephone conversations in which staff must use or discuss patient identifiers or other confidential information are made in secure areas.
- ◆ All paper copies or computer discs which must be hand carried are kept in a locking briefcase. The briefcase must remain with surveillance staff until it can be secured in a locking cabinet and secure environment.
- ◆ Any state or local presentations of data, oral or written, include only aggregate data with no identifiers.
- ◆ All surveillance employees are required to read and sign a *Statement of Confidentiality* stating that they have read and understand the provisions of the Texas Communicable Disease Prevention and Control Act and the penalties, including dismissal, for any violation of confidentiality.

The Bureau of HIV and STD Prevention has been collecting AIDS case reports by name for 16 years with no known breach of confidentiality.

